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14 Attorneys for Plaintiff,  
15 Nicholas Hanhan

16 IN THE UNITED STATES DISTRICT COURT  
17 FOR THE DISTRICT OF ARIZONA

18  
19 Nicholas Hanhan,

20 Plaintiff,

21 vs.  
22

23 Credit Management Solutions, LLC; and  
24 DOES 1-10, inclusive,

25 Defendants.  
26  
27  
28

Case No.:

**COMPLAINT**

**JURY TRIAL DEMANDED**

1 For this Complaint, the Plaintiff, Nicholas Hanhan, by undersigned counsel,  
2 states as follows:  
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt  
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of  
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to  
8 collect a consumer debt.  
9

10 2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331,  
11 1367.  
12

13 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that  
14 Defendants transact business here and a substantial portion of the acts giving rise to  
15 this action occurred here.  
16

17 **PARTIES**

18 4. The Plaintiff, Nicholas Hanhan (hereafter "Plaintiff"), is an adult individual  
19 residing at 2350 South Avenue B, Apartment 1606, Yuma, Arizona 85364, and is a  
20 "consumer" as the term is defined by 15 U.S.C. § 1692a(3).  
21

22 5. The Defendant, Credit Management Solutions, LLC (hereafter "CMS"), is a  
23 New York company with an address of 7116 Northview Drive, Lockport, New York  
24 14094, operating as a collection agency, and is a "debt collector" as the term is  
25 defined by 15 U.S.C. § 1692a(6).  
26  
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1 6. Does 1-10 (the “Collectors”) are individual collectors employed by CMS and  
2 whose identities are currently unknown to the Plaintiff. One or more of the Collectors  
3 may be joined as parties once their identities are disclosed through discovery.  
4

5 7. CMS at all times acted by and through one or more of the Collectors.  
6

7 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

8 **A. The Debt**

9 8. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original  
10 creditor (the “Creditor”).  
11

12 9. The Debt arose from services provided by the Creditor which were primarily  
13 for family, personal or household purposes and which meets the definition of a “debt”  
14 under 15 U.S.C. § 1692a(5).  
15

16 10. The Debt was purchased, assigned or transferred to CMS for collection, or  
17 CMS was employed by the Creditor to collect the Debt.  
18

19 11. The Defendants attempted to collect the Debt and, as such, engaged in  
20 “communications” as defined in 15 U.S.C. § 1692a(2).  
21

22 **B. CMS Engages in Harassment and Abusive Tactics**

23 12. Within the last year, CMS contacted Plaintiff in an attempt to collect the Debt.  
24

25 13. CMS placed an initial call to Plaintiff’s place of employment and left a  
26 voicemail for the Human Resources Department at Plaintiff’s workplace.  
27  
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1 14. CMS's voicemail stated that "Jeff King" was calling as a "claims manager"  
2 with CMS and that their office was "retained to process a civil lawsuit scheduled for  
3 Yuma County District Court."  
4

5 15. Furthermore, the voicemail stated that their lawsuit would be "charging"  
6 Plaintiff with "theft of goods and services" and a "secondary offense reading  
7 malicious intent to defraud a lending institution."  
8

9 16. To date, no such action has been taken.  
10

11 17. Additionally, CMS failed to send Plaintiff any written correspondence  
12 informing him of his rights under Federal law.  
13

14 **C. Plaintiff Suffered Actual Damages**

15 18. The Plaintiff has suffered and continues to suffer actual damages as a result of  
16 the Defendants' unlawful conduct.  
17

18 19. As a direct consequence of the Defendants' acts, practices and conduct, the  
19 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional  
20 distress, fear, frustration and embarrassment.  
21

22 20. The Defendants' conduct was so outrageous in character, and so extreme in  
23 degree, as to go beyond all possible bounds of decency, and to be regarded as  
24 atrocious, and utterly intolerable in a civilized community.  
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**COUNT I**  
**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 U.S.C. § 1692, et seq.**

21. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

22. The Defendants communicated with individuals other than the Plaintiff, the Plaintiff's attorney, or a credit bureau, in violation of 15 U.S.C. § 1692c(b).

23. The Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

24. The Defendants used false, deceptive, or misleading representation or means in connection with the collection of a debt, in violation of 15 U.S.C. § 1692e.

25. The Defendants threatened to take legal action, without actually intending to do so, in violation of 15 U.S.C. § 1692e(5).

26. The Defendants falsely misrepresented that the Plaintiff had committed a crime, in order to disgrace the Plaintiff, in violation of 15 U.S.C. § 1692e(7).

27. The Defendants employed false and deceptive means to collect a debt, in violation of 15 U.S.C. § 1692e(10).

28. The Defendants used unfair and unconscionable means to collect a debt, in violation of 15 U.S.C. § 1692f.

1 29. The Defendants failed to send Plaintiff an initial letter within five days of its  
2 initial contact with Plaintiff as required by law, in violation of 15 U.S.C. § 1692g(a).  
3

4 30. The foregoing acts and omissions of the Defendants constitute numerous and  
5 multiple violations of the FDCPA, including every one of the above-cited provisions.  
6

7 31. The Plaintiff is entitled to damages as a result of the Defendants' violations.  
8

## 9 **COUNT II**

### 10 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

11 32. The Plaintiff incorporates by reference all of the above paragraphs of this  
12 Complaint as though fully set forth herein at length.

13 33. The acts, practices and conduct engaged in by the Defendants vis-à-vis the  
14 Plaintiff was so outrageous in character, and so extreme in degree, as to go beyond all  
15 possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in  
16 a civilized community.  
17

18 34. The foregoing conduct constitutes the tort of intentional infliction of emotional  
19 distress under the laws of the State of Arizona.  
20

21 35. As a result of the Defendants' intentional infliction of emotional distress, the  
22 Plaintiff is entitled to actual damages in an amount to be determined at trial from  
23 Defendants.  
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**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays that judgment be entered against the

Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the

Defendants;

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C.

§1692k(a)(2)(A) against the Defendants;

C. Costs of litigation and reasonable attorneys' fees pursuant to

15 U.S.C. § 1692k(a)(3) against the Defendants;

D. Actual damages from the Defendants for all damages, including

emotional distress suffered as a result of the intentional, reckless, and/or

negligent FDCPA violations in an amount to be determined at trial for

the Plaintiff;

E. Punitive damages; and

F. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

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DATED: April 19, 2013

LEMBERG & ASSOCIATES, LLC

By: /s/ Trinette G. Kent  
Trinette G. Kent

Attorney for Plaintiff,  
Nicholas Hanhan